Supreme Court No. 96267-7

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

JOSE MARTINEZ-CUEVAS, et al.,

Petitioners,

v.

DERUYTER BROTHERS DAIRY, INC., et al.,

Respondents,

and

WASHINGTON STATE DAIRY FEDERATION
and WASHINGTON FARM BUREAU,

Intervenor-Respondents.

INTERVENORS-RESPONDENTS' MOTION FOR RECONSIDERATION

Timothy J. O'Connell, WSBA #15372
Anne Dorshimer, WSBA #50363
STOEL RIVES LLP
600 University Street, Suite 3600
Seattle, WA 98101
206.624.0900

Attorneys for Intervenors/Respondents

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

Cases

Statutes

Regulations

Constitutional Provisions

I. INTRODUCTION

Intervenors-Respondents, by and through their undersigned counsel, respectfully move the Court[1] to reconsider points of fact and law which the majority opinion overlooked or misapprehended.

The majority opinion held that article II, section 35 of the Washington State constitution creates a fundamental right of state citizenship to laws that protect the health and safety of dairy workers, and requires the Legislature to pass appropriate laws for the protection of workers. However, the majority overlooked the fact that the Legislature has already enacted this very protection by enacting the Washington Industrial Safety and Health Act ("WISHA"), ch. 49.17 RCW. The majority opinion did not address this expansive legislation at all, which may affect its analysis. This failure is inexplicably inconsistent with authority issued by this Court just months ago, emphasizing the plenary authority of the Legislature to choose how to carry out the functions assigned to it by our constitution.

Moreover, the majority opinion overlooked or misapprehended an issue of law when it struck down RCW 49.46.130(2)(g)'s agricultural overtime exemption without striking down all of RCW 49.46.130. Prior

[1] Intervenors-Respondents are for these purposes focused on the majority opinion.

case law from this Court is explicit, that partial invalidity of a statute is unavailable unless the Court also concludes that the Legislature would have passed the statute absent the exemption. The majority opinion made no such conclusion and did not even address the issue.

The majority opinion also misapprehended and resolved disputed issues of fact: namely, the contention that defendants or defendant/intervenors do not dispute that dairy work is dangerous. To the contrary, the claim that dairy work is unduly dangerous, as compared to the dangers that adhere to all work, is a highly disputed fact.

Finally, the majority opinion misapprehended the issue of whether the question of retroactivity was properly before the Court. Moreover, if the majority opinion was right, and retroactivity has not yet been resolved, the Court's award of attorneys' fees to the not-yet-prevailing plaintiffs is plainly premature. For all of these reasons, counsel for Intervenors-Respondents respectfully urge the Court to reconsider its opinion entered in this case.

II. ARGUMENT

This Court has previously deemed reconsideration of an earlier decision appropriate where the case involved complex or important issues that will have far-reaching effects. *Chem. Bank v. Wash. Pub. Power Supply Sys.*, 102 Wn.2d 874, 885–86, 691 P.2d 524 (1984) ("We conclude

the complexity of the statutory authority issue and the importance of this litigation to thousands of individuals require a balance between principles of finality embodied in the Rules of Appellate Procedure and the interests of those involved. . . . We will therefore . . . reevaluate our decision.").

Intervenor-Respondents respectfully urge that this case's importance to Washington farmers cannot be overstated. The majority opinion will cost farmers hundreds of millions of dollars per year to extend an overtime premium to farm workers,[2] a cost not borne by competing farmers in neighboring states.[3] Even if the courts eventually correctly refuse the claims for retroactive application of the majority opinion – penalizing farmers for following the express provisions of Washington law, as well as the prior decisions from this Court upholding the constitutionality[4] of that law – this Court will subject every

[2] *See* CP 889-90 at ¶ 7 (estimate that extending an overtime premium to farm workers would cost Washington farmers tens if not hundreds of millions of dollars a year in new costs), not disputed by plaintiffs.

[3] *See* CP 890.

[4] *Peterson v. Hagan*, 56 Wn.2d 48, 67, 351 P.2d 127 (1960). In *Peterson*, this Court addressed constitutional challenges to Laws of 1959, ch. 294, Washington's initial enactment of its MWA. The Court faced the claim "that the entire act contravened the equal protection clause of the fourteenth amendment to the federal constitution and Art. I, § 12 of the state constitution." *Id.* at 51. The parties challenging the statute specifically objected that "the exemptions contained in § 1(5) excluding a number of employments from the operation of" the portion of the act creating overtime requirements "constitute a further unconstitutional discrimination against them which renders" that provision void. *Id.* at 52.

The Court rejected those claims. While the Court did strike down two provisions of the 1959 act not at issue here, *it rejected the other constitutional challenges*, upholding the Legislature's judgment in "excluding a number of employments from the operation of" the MWA's overtime requirements. *Id.* at 52, 54. As the Court would later explain,

Washington farmer to the costs of crippling litigation for the next several years.[5] In short, because this litigation is important to many thousands of Washington residents, Intervenors-Respondents urge that, similar to *Chemical Bank*, this case requires a balancing between the principle of finality and the interests of those involved. Reconsideration is appropriate.

A. The Majority Opinion Overlooked or Misapprehended Points of Facts and Law That Are Critical to the Analysis in This Case.

Intervenors-Respondents seek to emphasize points of facts or law that the majority opinion overlooked, respectfully contending that these points will cause the Court to rethink its decision.

1. The majority opinion overlooked the fact that the Legislature passed appropriate laws to protect the health and safety of Washington workers via WISHA, ch. 49.17 RCW.

The majority opinion reasoned that article II, section 35 constitutes a "fundamental right of Washington workers to health and safety

---

after *Peterson* the "remainder of the 1959 act continued to be in full force and effect." *State ex rel. Hagan v. Chinook Hotel, Inc.*, 65 Wn.2d 573, 577, 399 P.2d 8 (1965).

[5] *See Von Poppenheim v. Portland Boxing & Wrestling Comm'n*, 442 F.2d 1047, 1054 (9th Cir. 1971) ("Somewhere along the line, the rights of the defendants to be free from costly and harassing litigation must be considered. So too must the time and energies of our courts and the rights of would-be litigants awaiting their turns to have other matters resolved."); *Strauss v. Premera Blue Cross*, 194 Wn.2d 296, 304, 449 P.3d 640 (2019) (Madsen, J., dissenting) (in the summary judgment context, a trial court should grant the motion if the nonmoving party fails to meet his burden, because "[f]airness and judicial economy require as much because 'every hour of litigation is costly both to the parties and the taxpayers, and the expense should not be incurred needlessly'" (citation omitted)); *Lewis v. Marshall*, 30 U.S. 470, 470, 8 L. Ed. 195 (1831) ("litigation without limit produces ruinous consequences to the individuals").

protection" because article II, section 35 "*requires* the legislature to pass appropriate laws for the protection of workers." *Martinez-Cuevas v. DeRuyter Bros. Dairy, Inc.*, No. 96267-7, slip op. at 11 (Wash. Nov. 5, 2020) (emphasis in original). The majority opinion then concludes that "[t]he legislature enacted this very protection in the form of the Minimum Wage Act." *Id.* at 13.

The majority opinion, however, does not at all address in this portion of its analysis the fact that the Legislature has directly protected Washington workers by enacting the WISHA, ch. 49.17 RCW. *Id.* at 13-15. This legislation is directly authorized by article II, section 35. *Rios v. Wash. Dep't of Lab. & Indus*., 145 Wn.2d 483, 493-94, 39 P.3d 961 (2002). Pursuant to WISHA, the Department of Labor & Industries has been delegated the authority to prescribe safety regulations for the protection of agricultural workers. Chapter 296-307 of the Washington Administrative Code ("WAC") regulates, in extraordinary detail, safety practices on farms. Indeed, in the bound version of the WAC, chapter 296-307 *exceeds 300 pages* of regulations addressing every aspect of safety on the farm.

Intervenors-Respondents urge that the majority opinion, in overlooking WISHA, also overlooked the fact that the Legislature satisfied the constitutional mandate to pass appropriate laws for the protection of

workers. By its plain terms, the constitution delegates to *the Legislature* the authority to fix the penalties for failing to protect the safety of workers. Wash. Const. art. II, § 35. The Legislature's determination of how to fulfill its functions is entitled to at least some deference.

Indeed, just earlier this year this Court affirmed that the Legislature has discretion in determining how best to effectuate a constitutional right. *Davison v. State*, __ Wn.2d __, 466 P.3d 231, 237 (2020), *as amended on denial of reconsideration* (Oct. 20, 2020). In *Davison*, the Court determined that, while the state had an obligation to safeguard the constitutional right to counsel, "State legislatures need not enact any specific statutory scheme to safeguard the right to counsel. Just as in other contexts, the legislature has plenary power to develop the policy, statutory structure, and funding it determines will best effectuate the constitutional right." *Id.* (*citing Wash. State Farm Bureau Fed'n v. Gregoire*, 162 Wn.2d 284, 300-01, 174 P.3d 1142 (2007) (stating the Legislature has plenary power to enact laws not prohibited by the state or federal constitutions)).

Respectfully, the majority opinion entered in this case is in direct contradiction with *Davison v. State*. This Court may not appropriate to itself the decision as to the best way to protect the safety of Washington workers when the constitution expressly charges the Legislature with that

determination – or, at least, the Court may not do so without any analysis as to why its rejection of the Legislature's decision is warranted in the instant case, but not in cases like *Davison v. State*. Such an analysis has not yet been performed, and reconsideration is thus called for.

2. The majority opinion overlooked or misapprehended law that requires that it strike the entire statute, not just the agricultural overtime exemption.

The majority opinion struck RCW 49.46.130(2)(g)'s agricultural overtime exemption as unconstitutional, but left the remainder of the section's exemptions intact. Slip op. at 18. This holding overlooked or misapprehended this Court's prior precedent.

In *Griffin v. Eller*, 130 Wn.2d 58, 69, 922 P.2d 788 (1996), this Court held that partial invalidity of a statute would be unavailable "*unless* [the Court] also concluded the Legislature would have passed the statute absent the . . . exemption. Otherwise, the proper remedy is complete statutory invalidation rather than changing legislative intent by upsetting the legislative compromise." *Id.* (emphasis added); *see also Leonard v. City of Spokane*, 127 Wn.2d 194, 201, 897 P.2d 358 (1995) ("[T]he various provisions of a legislative enactment are not severable if the constitutional and unconstitutional provisions are so connected . . . that it could not be believed that the legislature would have passed one without the other."); *In re Parentage of C.A.M.A.*, 154 Wn.2d 52, 68-69, 109 P.3d

405 (2005) ("We cannot know how the legislative compromise . . . affected the legislature's choices regarding the . . . subsection. . . . We show greater respect for the legislature by preserving the legislature's fundamental role to rewrite the statute rather than undertaking that legislative task ourselves. Therefore we hold the statute unconstitutional in its entirety.").

Further, in January 2020, the Court issued its decision in *Ass'n of Washington Business v. Washington State Department of Ecology*, No. 95885-8 (Wash. Jan. 16, 2020). Therein the Court stated:

> We have recognized with regard to statutes that the presence of a severability clause "may provide the assurance that the legislative body would have enacted remaining sections even if others are found invalid," though it "is not necessarily dispositive on that question."

Slip op. at 20 (*quoting McGowan v. State*, 148 Wn.2d 278, 294-95, 60 P.3d 67 (2002)).

The Court cannot say that the Legislature would have enacted the overtime statute without the agricultural overtime exception. Indeed, such a claim would be contrary to plaintiffs' fundamental theory of the case, resting on the supposed political power of the agricultural community.[6] Moreover, the Legislature has never enacted any statute or amendment

[6] *See* Petitioners' Opening Br. at 17; Petitioner's Reply at 16-22.

enacting the current version of the farm worker overtime exemption with *any* kind of severability clause, as Intervenors-Respondents have identified.[7] In short, the Court held that the agricultural exemption is unconstitutional; however, it overlooked or misapprehended the legal requirement that, if the Court so holds, it must strike down RCW 49.46.130, not just the one subsection containing the agricultural exemption.

3. The majority opinion overlooked the fact that its opinion is subject to no limiting principle.

As discussed *supra*, because the Court's prior case law requires that the majority opinion, as written, must strike down the entire overtime exemption section, and not merely the agricultural exemption, counsel wishes to respectfully emphasize that the majority opinion as written leads to results the Court could not have intended. The analysis of the majority opinion must be applied as written, and will thus have an application much broader than the impact on DeRuyter and plaintiffs in this case.

[7] *See* Intervenors-Respondents' Second Statement of Supplemental Authority (filed January 23, 2020).

All employment is hazardous, to one extent or another.[8] Yet, many categories of employment are not entitled to overtime.[9] If the Court does not strike the entire section as unconstitutional (discussed above), the majority opinion as written does not prevent all overtime-exempt workers from suing under the "DeRuyter doctrine," asserting that their work is dangerous to life or deleterious to health, and demanding that they are entitled to overtime pay. Because most Washington employers employ at least some exempt supervisors, managers, or administrative workers, most Washington employers face the risk of claims under a straightforward reading of the majority opinion in this case. Intervenors-Respondents respectfully contend that the Court could not have intended such a broad application of its ruling, which has the prospect of disrupting the entirety of Washington's economy. Which is to say, reconsideration is called for.

B. The Majority Opinion Overlooked Disputed Issues of Fact.

The majority opinion overlooked disputed issues of fact, incorrectly stating that DeRuyter does not dispute that the dairy industry is

[8] Ch. 296-800 WAC ("Safety and Health Core Rules"). The core rules "affect all employers." WAC 296-800-100. In addition, using the authority the Legislature delegated to it in WISHA, the Department of Labor & Industries has generated nine other entire chapters in the WAC setting out general safety and health requirements, 30 chapters setting out regulations applicable to specific hazards, and more than 30 chapters setting out health and safety requirements for specific industries. Title 296, WAC.

[9] *See* Intervenors-Respondents' Opening Br. at 3-5 (listing all categories of employment that the Legislature exempted from overtime requirements, and noting that more than one out of every six workers otherwise eligible for overtime are exempt under the "white collar" exemptions alone).

dangerous to the health of dairy workers. Slip op. at 12-13. The majority opinion cites to page seven of defendant DeRuyter's opening brief as evidence that DeRuyter does not dispute that the dairy industry is dangerous to the health of dairy workers. *Id.* However, this page of the defendants' brief merely contains a roadmap for DeRuyter's summary of the factual background of the case. Opening Br. of Resp'ts/Cross-Appellants at 7. Nowhere does DeRuyter state that it does not dispute that the dairy industry is dangerous. Further, Respondents-Intervenors expressly disputed that the dairy industry is dangerous to the health of dairy workers. Br. of Resp'ts/Intervenors at 19-20 n.12.

Further, the majority opinion referenced factual statements in the amicus briefing submitted to this Court that conflict with factual statements in the trial court record. Respondents and Respondent-Intervenors properly placed in the trial court record actual evidence that farming is not unduly hazardous, and that Petitioners had established no causation between the hazards they identified and the overtime exemption. *See* CP 916 n.4 (Respondent-Intervenors' criticism of Petitioners' failure to offer expert testimony on the issue of farming safety); CP 1117-18 (Respondent-Intervenors' citation to Department of Labor & Industries data showing no workplace fatalities in agriculture as of that date, and criticism of Petitioners' failure to address other occupations that are

exempt from overtime but nonetheless dangerous on their face); CP 757 (Respondents point out that Petitioners failed to submit any evidence as to causal connection between alleged hazards of farming and the overtime exemption).

The Court should reconsider its opinion, because it did not address that there were contrary evidentiary facts in the superior court record, and briefing both in the superior court and in the appellate court that dispute the claim that the dairy industry is dangerous.

C. The Court Should Reconsider the Issue of Retroactivity.

Finally, counsel for Intervenors-Respondents respectfully requests that the Court reconsider the issue of retroactivity.

1. The failure to list retroactivity in *plaintiffs'* petition for review should not preclude resolution of the issue.

The majority opinion concluded in a footnote that the Court would not address the issue because neither party raised the issue in its statement of grounds for review. Slip op. at 18 n.4. Intervenors-Respondents respectfully assert that the Court overlooked that the procedural history of the case is to blame, not defendants. Preliminarily, the Court should recall the posture of this case at the time it was brought up from the superior court to the appellate courts. The superior court had denied defendants' and intervenors' motions for summary judgment, but it had also denied

plaintiffs' motion, reserving the matter for trial. CP 1202-03 (Superior Court Order). In other words, the trial court had not reached the issue of damages at all, and there was no determination of liability, prospective or retroactive, to appeal.

The motion for discretionary review to this Court was filed by plaintiffs, not by defendants. Plaintiffs would not have included an issue raised by defendants with which they disagreed. On the other hand, defendants filed a request for discretionary review in Division III of the Court of Appeals. In that motion, defendants and intervenors were explicit, that one of the issues justifying review was the risk of time-consuming and costly litigation. Mot. for Discretionary Review [filed with Division III], at 12. Defendants and intervenors specifically called out the considerations which would justify exclusively prospective relief in the case:

> This factor should be given particular weight for the DeRuyters, who are now embroiled in this costly litigation simply because they followed a decades old statute according to its unambiguous terms, in accordance with industry practice and more than 80 years of American tradition.

Id. In light of that express concern, no party could have been surprised that the issue of retroactivity was explicitly identified by the DeRuyter

defendants as one of their Assignments of Error. DeRuyter Opening Br. at 4, Assignment of Error No. 3.

Further, if the Court does not determine retroactivity, it will subject Washington farmers to potentially years' worth of litigation until the issue is again presented to the appellate courts. If the Court does not address the issue of retroactivity now, every farmer in the state of Washington is a target of such litigation. Intervenors-Respondents urge the Court to reconsider retroactivity because of these unintended results, which will subject virtually all Washington farmers to years of ruinously expensive litigation, merely for having followed the express provisions of Washington law – a straightforward law which, it cannot be said often enough, this Court had expressly held to be constitutional. *Peterson v. Hagan*, 56 Wn.2d 48, 54, 351 P.2d 127 (1960); *State ex rel. Hagan v. Chinook Hotel, Inc.*, 65 Wn.2d 573, 577, 399 P.2d 8 (1965).

2. The conclusion that retroactivity will not be resolved is irreconcilably inconsistent with the award of attorneys' fees to plaintiffs.

In addition, the majority opinion overlooked or misapprehended the fact that it inconsistently approached the issue of retroactivity within the majority opinion itself. The majority opinion was explicit that the question of retroactivity was not before the court. Slip op. at 18 n.4. The majority opinion was equally clear that the only substantive basis for an

award of attorneys' fees was RCW 49.48.030. *Id.* at 18. However, that statute only authorizes an award of fees if "any person *is successful* in recovering judgment for wages or salary owed to him or her." RCW 49.48.030 (emphasis added). Plaintiffs may be successful in the end – but under the express terms of this Court's decision they assuredly are not yet. Plaintiffs may never be successful, until a court determines that retroactive liability is appropriate. Either this Court can fail to consider retroactivity, or it can award plaintiffs fees for having recovered a judgment – but Interveners-Respondents respectfully point out that the Court cannot do both.

Finally, Intervenors-Respondents wish to address the concurrence opinions on this point. Neither concurrence, when addressing the issue of retroactivity, addressed the issue that the Court had previously reviewed the prior version of RCW 49.46.130 and upheld its constitutionality in the face of an article I, section 12 challenge to the exemptions the statute created. *Peterson*, 56 Wn.2d at 51, 67. Neither concurrence addressed the fact that, more recently, this Court has repeatedly addressed the exemptions set forth in RCW 49.46.130, and never once suggested that any exemption violates a fundamental right. *Cerrillo v. Esparza*, 158

Wn.2d 194, 142 P.3d 155 (2006).[10] As is relevant to the instant matter, *Cerrillo* is particularly noteworthy. This Court construed the plain language of RCW 49.46.130(2)(g) – the farm worker exception itself – to reverse the Court of Appeals and conclude that a group of agricultural workers were not entitled to overtime. Not one word in *Cerrillo* intimates the slightest constitutional infirmity in the farm worker exception.

Due to these many cases, and the fact that the majority opinion reversed these prior holdings, Intervenors-Respondents urge that the Court reconsider the issue and decide that the time has indeed come to address the retroactivity issue.[11]

III. CONCLUSION

For all of the foregoing reasons, Intervenors-Respondents respectfully ask this Court to reconsider the above issues of fact and law that it overlooked or misapprehended.

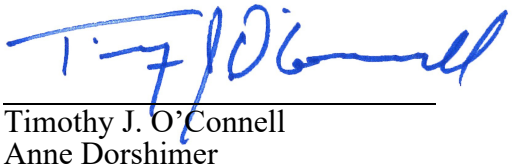
---

[10] *See also Stahl v. Delicor of Puget Sound, Inc.*, 148 Wn.2d 876, 64 P.3d 10 (2003) (retail sales employees exempt); *Berrocal v. Fernandez*, 155 Wn.2d 585, 121 P.2d 82 (2005) (upholding exemption of employees – sheepherders – who slept at their place of employment); *Webster v. Pub. Sch. Emps. of Wash., Inc.*, 148 Wn.2d 383, 60 P.3d 1183 (2003) (administrative employees); *Clawson v. Grays Harbor Coll. Dist. No. 2*, 148 Wn.2d 528, 61 P.3d 1130 (2003) (professional employees).

[11] Moreover, the issue of retroactive relief is dispositive in this case. DeRuyter previously disposed of its dairy operations in May 2017. *See* DeRuyter's Opening Br. at 45 n.53; Mot. for Discretionary Review to the Ct. of Appeals n.3. Plaintiffs never disputed this point, which renders the prospective relief issue moot. This is yet another reason why Intervenors-Respondents urge the Court to reconsider its position on declining to decide the issue of retroactivity.

DATED: November 25, 2020.

STOEL RIVES LLP



Timothy J. O'Connell
Anne Dorshimer

Attorneys for
Intervenors/Respondents

CERTIFICATE OF SERVICE

I certify that at all times mentioned herein, I was and am a resident of the state of Washington, over the age of 18 years, not a party to the proceeding or interested therein, and competent to be a witness therein. My business address is that of Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, Washington 98101.

On November 25, 2020, I electronically filed the foregoing document with the Supreme Court by using the Supreme Court's electronic filing portal. Participants in this case who are registered eportal users will be served via that system:

Lori Jordan Isley
Joachim Morrison
Andrea Schmitt
Columbia Legal Services
6 South Second Street, Suite 600
Yakima, WA 98901
Tel: (509) 575-5593
Fax: (509) 575-4404
Email: lori.isley@columbialegal.org
Email: joe.morrison@columbialegal.org
Email: andrea.schmitt@columbialegal.org

Attorney for Plaintiffs

Marc Cote
Anne Silver
Frank Freed Subit & Thomas LLP
705 2nd Avenue, Suite 1200
Seattle, WA 98104-1798
Tel: (206) 682-6711
Fax: (206) 682-0401
Email: mcote@frankfreed.com
Email: asilver@frankfreed.com

Attorney for Plaintiffs

John Ray Nelson
Foster Garvey P.C.
618 W. Riverside Avenue, Suite 300
Spokane, WA 99201
Tel: (509) 777-1600
Fax: (509) 777-1616
Email: john.nelson@foster.com

Attorney for DeRuyter Brothers Dairy, Inc.

Jesse Wing
Tiffany Cartwright
MACDONALD HOAGUE & BAYLESS
705 Second Avenue, Suite 1500
Seattle, Washington 98104
Telephone: (206) 622-1604
Facsimile: (206) 343-3961
Email: jessew@mhb.com
Email: tiffanyc@mhb.com

Jeffrey L. Needle
LAW OFFICE OF
JEFFREY L. NEEDLE
705 Second Avenue, Suite 1050
Seattle, Washington 98104
Telephone: (206) 447-1560
Facsimile: (206) 447-1523
Email: jneedlel@wolfenet.com

Attorneys for Amicus Curiae - Washington Employment Lawyers Association

Kathleen Phair Barnard
Barnard Iglitzin & Lavitt. LLP
18 W Mercer St., Ste. 400
Seattle, WA 98119-3971
206-285-2828 (phone)
Email: barnard@workerlaw.com

Rebecca A. Smith
National Employment Law Project
317 17th Ave. S
Seattle, WA 98144-2147
(206) 324-4000 (phone)
Email: rsmith@nelp.org

in association with:
Mario Martinez
Martinez Aguilasocho
& Lynch, APLC
P.O. Box 1998
Bakersfield, CA 93303
(661) 859-1174 (phone)
Email: mmartinez@farmworkerlaw.com

Counsel for Amicus Curiae - National Employment Law Project, Familias Unidas Por La Justicia, United Farm Workers of America

John Midgley
Nancy Talner, *Senior Staff Attorneys*
Christopher Fargo-Masuda, *Volunteer Attorney*
AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON FOUNDATION
901 5th Avenue, Suite 630
Seattle, WA 98164
(tel) (206) 624-2184
Email: jmidgley@aclu-wa.org
Email: talner@aclu-wa.org
Email: cfargomasuda@aclu-wa.org

Counsel for Amicus Curiae - ACLU of Washington

Jessica Levin
Robert S. Chang
Charlotte Garden
RONALD A. PETERSON LAW CLINIC
SEATTLE UNIVERSITY SCHOOL OF LAW
1112 East Columbia St. Seattle, WA 98122 Tel:
(206) 398-4009
Email: levinje@seattleu.edu
Email: changro@seattleu.edu
Email: gardenc@seattleu.edu

Counsel for Amicus Curiae - FRED T. KOREMATSU CENTER FOR LAW AND EQUALITY

Brendan Monahan
Sarah Wixson
Lance Pelletier
STOKES LAWRENCE VELIKANJE MOORE & SHORE
(509) 853-3000
Email: brendan.monahan@stokeslaw.com
Email: sarah.wixon@stokeslaw.com
Email: lance.pelletier@stokeslaw.com

Attorneys for Amicus Curiae - Washington State Tree Fruit Association and Hop Growers of Washington

Kenneth W. Masters
MASTERS LAW GROUP, P.L.L.C.
241 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-5033
Email: ken@appeal-law.com

Counsel for Amici Curiae - The Farmworker Justice Project & Professor Marc Linder

DATED at Seattle, Washington, this 25th day of November, 2020.

s/Debbie Dern
Debbie Dern, Legal Practice Assistant

STOEL RIVES LLP

November 25, 2020 - 4:47 PM

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	96267-7
Appellate Court Case Title:	Jose Martinez-Cuevas, et al. v. Deruyter Brothers Dairy, Inc., et al.
Superior Court Case Number:	16-2-03417-8

The following documents have been uploaded:

- 962677_Motion_20201125162612SC863573_1095.pdf
  This File Contains:
  Motion 1 - Reconsideration
  The Original File Name was 2020 11 25 WSDF WFB DeRuyter Intervenors Motion for Reconsideration.pdf

A copy of the uploaded files will be sent to:

- Lance.Pelletier@stokeslaw.com
- SGunderson@frankfreed.com
- andrea.schmitt@columbialegal.org
- ank@stokeslaw.com
- anne.dorshimer@stoel.com
- asilver@frankfreed.com
- barnard@workerlaw.com
- bvm@stokeslaw.com
- cfargo.masuda@gmail.com
- changro@seattleu.edu
- cheli.bueno@columbialegal.org
- cindy.castro@stoel.com
- djw@stokeslaw.com
- gardenc@seattleu.edu
- jessew@mhb.com
- jmidgley@aclu-wa.org
- jneedlel@wolfenet.com
- joe.morrison@columbialegal.org
- john.nelson@foster.com
- ken@appeal-law.com
- levinje@seattleu.edu
- litdocket@foster.com
- lori.isley@columbialegal.org
- marrym@mhb.com
- mcote@frankfreed.com
- mgrosse@frankfreed.com
- mmartinez@farmworkerlaw.com
- paralegal@appeal-law.com
- pleadings@aclu-wa.org
- rebeccasmitholy@gmail.com
- rsmith@nelp.org
- sarah.wixson@stokeslaw.com
- talner@aclu-wa.org

- tiffanyc@mhb.com
- valenzuela@workerlaw.com

Comments:

Sender Name: Timothy O'Connell - Email: tim.oconnell@stoel.com
Address:
600 UNIVERSITY ST STE 3600
SEATTLE, WA, 98101-3197
Phone: 206-624-0900 - Extension 7562

Note: The Filing Id is 20201125162612SC863573